

REMARKS

Claims 1-5, 8-12, 14 and 21-29 are before the Examiner for consideration.

In the December 14, 2004 Office Action, the Examiner rejected Claims 27 and 28 under 35 U.S.C. 112, second paragraph, "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Specifically, the Examiner stated that "[t]here is in sufficient antecedent basis" for the limitation "combustible gas sensor" in line 1 of Claims 27 and 28. Applicants have amended Claims 27 and 28 to replace the words "combustible gas sensor" with the words "measurement circuit" which does have an antecedent basis in Claim 24. Applicants respectfully submit that amended Claims 27 and 28 comply with the requirements of Section 112, second paragraph.

The Examiner rejected Claims 1, 8, 14, 21, 22 and 29 "under the judicially created doctrine of double patenting over claims 1, 3 and 5 of U.S. Patent No. 6,663,834B1". The Examiner correctly notes that the "claims of the patent include limitations not recited [in the claims] in the instant application". However, the Examiner's conclusion that "the instant claims are fully encompassed by the patent claims" is not correct. Rather, the patent claims are fully encompassed by the claims in the present application since the claims of the patent include limitations not recited in the claims of the present application.

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Applicants submit herewith a terminal disclaimer, accompanied by a Fee Transmittal form authorizing the Director to charge the appropriate fee of \$110.00 to Deposit Account No. 13-3635, to overcome the Examiner's nonstatutory double patenting rejection. The terminal disclaimer is signed by the attorney of record in the present application. The Assignee of the present application is Mine Safety Appliances Company as evidenced by the Assignment document executed in the parent application (now U.S. Patent No. 6,663,834) which was recorded in the USPTO on March 14, 2001 at Reel/Frame 011672/0265.

Respectfully submitted,
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